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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,372	03/26/2004	George T. Domizio	03-284-2	2082
34704	7590	06/19/2007	EXAMINER	
BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			REESE, DAVID C	
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/811,372	DOMIZIO, GEORGE T.
	Examiner	Art Unit
	David C. Reese	3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 April 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4, 6-11 and 13-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 17 and 18 is/are allowed.  
 6) Claim(s) 1-4, 6-7, 9, 10, 15-16 is/are rejected.  
 7) Claim(s) 8, 11, 13 and 14 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

The indicated allowability of claims 4-5 and 9 (from office action 12/22/2006) are withdrawn in view of the newly discovered reference(s) to Malks, then Malks in view of Kraus. Rejections based on the newly cited reference(s) follow.

THIS NON-FINAL ACTION IS RESPONSIVE TO THE AMENDMENT FILED 4/3/2007.

- Claims 5 and 12 were canceled.
- Claims 16-18 were added.
- Claims 1 and 6 were amended.
- Claims 1-4, 6-11, and 13-18 are pending.

### *Claim Rejections - 35 USC § 102*

[1] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[2] Claims 1-3, 6-7, 9-10, and 15 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Malks, US-5,186,591, because the invention was patented or described in a printed

publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

The shape and appearance of Malks is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Malks discloses a bolt (figures 4-5) [for securing a threaded member relative to a mold wall], comprising:

a head portion (54) having a central portion (54), a rounded end extending from one end of the central portion and at least one wing (58) flexibly extending laterally with respect to a longitudinal axis of the central portion (54), and further comprising a longitudinal slot (56) disposed along the central portion (54); and

a thread protector (58) portion comprising a threaded member (64) having a slotted (top of 62) head (64), the thread protector (58) being releasably (via 72,74) connected to the central portion (54).

Re: Claim 2, wherein the central portion (54) has a solid base (50) at an end opposite to the rounded end, and wherein the slotted head (top of 62) of the thread protector (58) is releasably connected (via 72, 74) to the solid base (50).

Re: Claim 3, discloses wherein the at least one wing (58) comprises at least two wings (58) extending laterally from opposite sides of the central portion.

Re: Claim 6, discloses wherein the at least one wing (58) extends outwardly and rearwardly from the rounded head.

As for Claim 7, wherein the at least one wing (58) is hingedly mounted to the central portion (54) at a hinged connection.

Re: Claim 9, further comprising at least one longitudinal cutout (62) positioned along the thread protector (58).

Re: Claim 10, wherein the at least one longitudinal cutout (62) extends from a rear edge of the thread protector (58) toward the slotted head (top of 62).

Re: Claim 15, wherein the head portion has an axis and the central portion (54) has a side wall substantially parallel to the axis, wherein the at least one wing (58) is pivotable relative to the central portion (54) between a compressed position wherein the at least one wing (58) is substantially parallel to the side wall and an extended position wherein the at least one wing (58) is angled away from the side wall and wherein the outer wall of the at least one wing (58) is aligned with an outer wall of the solid base when the at least one wing (58) is in the compressed position.

***Claim Rejections - 35 USC § 103***

[3] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[4] Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malks, US-5,186,591, in view of Kraus, US-4,787,795.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claims 4 and 16, Malks teaches of that from claim 1.

The difference between the claim and Malks is that Malks does not expressly disclose of at least one wing having ridges on its outer surface. Kraus discloses a fastener with wings similar to that of Malks. In addition, Kraus further teaches of at least one wing (1) having an outer surface with ridges (16) on the outer surface. It would have been obvious to one of ordinary skill in the art, having the disclosures of Malks and Kraus before him at the time the invention was made, to modify the wings of Malks to include ridges, as in Kraus. One would have been motivated to make such a combination because the ridges, when located on the wings of a fastener, aid in securing the head of said fastener within a hole, as well as allowing said fastener to be used with workpieces of different thicknesses', as taught by Kraus.

*Reasons for Allowance*

[5] Claims 8-11, and 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17-18 are allowed.

As for Claims 8, 11, and 13-14, and 17-18 the prior art, incorporating other corresponding limitations as set forth above, does not teach or provide motivation for a forward

facing portion of the wing extending forward from the hinge connection, and a rearward facing portion of the wing extending rearwardly from the hinge connection (claims 8 and 13); the longitudinal cut out ending before reaching the slotted head (claim 11). Claim 14 is dependent upon claim 13. Claims 17-18 are allowed for the same reasons as presented by the language of claims 8 and 13.

*Response to Arguments*

[6] Applicant arguments and amendments filed 4/3/2007 regarding rejections under 35 U.S.C. 103 have been fully considered. Accordingly, the Examiner has withdrawn all previous rejections over Regan et al. in view of Haldopoulos. All arguments, however, are considered moot to said new grounds of rejection and updated allowable subject matter. Please also note the additional notice of reference cited.

*Conclusion*

[7] **THIS ACTION IS NON-FINAL**

[8] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese

Assistant Examiner

Art Unit 3677



**Katherine Mitchell**  
**Primary Examiner**

DCR

  
5/3/07